

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TAREN ATKINSON,

Plaintiff,

-vs-

ELAN FINANCIAL SERVICES,

Defendant.

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DOCKET NO.: _____

NOTICE OF REMOVAL

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA AND TO PLAINTIFF:**

PLEASE TAKE NOTICE that the defendant identified as Elan Financial Services (hereinafter “***Defendant***”), by and through its undersigned counsel, Duane Morris, LLP, hereby files its Notice of Removal under 28 U.S.C. § 1441 to effect removal of this matter which was commenced in the Court of Common Pleas for Luzerne County, Pennsylvania, and designated docket number 2016-11676 (the “***State Court Action***”). Defendant states that removal is proper for the following reasons:

1. On or around November 17, 2016, Plaintiff Taren Atkinson (“***Plaintiff***”) filed a Complaint in the Court of Common Pleas for Luzerne County, Pennsylvania, and designated docket number 2016-11676.

2. Defendant was served on November 21, 2016. Because this Notice of Removal is being filed within 30 days of the earliest date that Defendant received service of the Complaint, it is timely filed under 28 U.S.C. § 1446(b).

3. This Court has original jurisdiction over this action under 28 U.S.C. § 1331, and this action is removable under 28 U.S.C. §§ 1441 and 1446, in that Plaintiff’s claims arise “under the Constitution, laws, or treaties of the United States.”

4. The Complaint alleges a single cause of action under the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“*TCPA*”). *See* Exhibit A.

5. This claim arises under the laws of the United States.

6. Accordingly, the face of the Complaint establishes that this Court has original jurisdiction over this matter and, therefore, removal is proper.

7. In accordance with 28 U.S.C. § 1446(a), attached hereto as Exhibit A is a true and correct copy of all pleadings filed in this action in the State Court Action.

8. This Notice of Removal is being served on all parties of record by mailing, United States first class, postage prepaid, a copy thereof to their attorneys of record, and a copy of the original Notice of Removal will be filed in the office of the Prothonotary of the Court of Common Pleas for Luzerne County, Pennsylvania pursuant to 28 U.S.C. § 1446(d).

9. In filing this Notice of Removal, Defendant does not waive, and specifically reserves, any and all objections as to service, personal jurisdiction, defenses, exceptions, rights, and motions. No statement herein or omission shall be deemed to constitute an admission by Defendant of any of the allegations of, or damages sought in, the Complaint.

WHEREFORE, Defendant prays that this civil action be removed to this Court from the Court of Common Pleas for Luzerne County, Pennsylvania.

Dated: Philadelphia, Pennsylvania
December 12, 2016

DUANE MORRIS LLP
30 South 17th Street
Philadelphia, PA 19103
215.979.1000 (telephone)
215.979.1020 (facsimile)

By: /s/ Brett L. Messinger
Brett L. Messinger
30 South 17th Street, 12th Floor
Philadelphia, PA 19103
215.979.1508 / 1134 tel.
215.979.1020 fax

*Attorneys for Defendant Elan Financial
Services*

CERTIFICATE OF SERVICE

I, Brian J. Slipakoff, certify that a true and correct copy of this Notice of Removal was served, via regular first class mail on all parties or their counsel of record, on this 12th day of December 2016.

Brett Freeman
SABATINI LAW FIRM, LLC
216 N. Blakely St.
Dunmore, PA 18512

By: /s/ Brian J. Slipakoff